

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>UNITED STATES OF AMERICA</b>	§	
	§	
<b>v.</b>	§	<b>CRIMINAL NO. H-15-0295</b>
	§	
<b>HERIBERTO LATIGO</b>	§	

**GOVERNMENT'S MOTION IN LIMINE**

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, the United States of America, by and through Kenneth Magidson, United States Attorney in and for the Southern District of Texas, and the undersigned Assistant United States Attorney assigned to this matter, and would respectfully requests the Court to instruct the defense counsel, and to order defense counsel to instruct the defendant and defense witnesses not to allude to, refer to, or in any way bring before the jury any of the following matters until a hearing is conducted outside the presence of the jury to determine their admissibility. The United States would respectfully show the Court that the following matters are presumptively irrelevant to any issue for the jury's proper consideration:

I.

Any question, comment, argument, or testimony concerning filing the SOX Whistleblower Complaint by the Defendant or the facts and circumstances

underlying said filing.

## II.

Any question, comment, argument, or testimony encouraging the jury to judge the wisdom or value of the laws which the Defendant is accused of violating. The jury's function is to apply the law given them by the Court to the facts as they find them. The jury is clearly not permitted to judge the wisdom or value of the law and should not be encouraged to do so by questions, arguments, or testimony designed to elicit such judgments on their part.

## III.

Any question, comment, argument, or testimony encouraging the jury to base their verdict on bias or sympathy. The Court will instruct the jury that they are not to be influenced by bias or sympathy but are to base their verdict on the facts as they find them and the law which the Court gives them. The jury should not be encouraged to disregard these instructions by questions, arguments, or testimonies which are designed to encourage it to ignore the Court's instructions and allow them to be influenced by bias or sympathy.

## IV.

Any question, comment, argument, or testimony concerning the criteria used to select if and how a case will be prosecuted.

V.

Any question, comment, argument, or testimony concerning lack of testimony from witnesses on the government's witness list, as those individuals are available to Defendant to call.

VI.

Any question, comment, argument, or testimony concerning the punishment and range of punishment, either directly or by reference that Defendant faces if convicted.

Respectfully submitted,

KENNETH MAGIDSON  
UNITED STATES ATTORNEY

/s/ Steven T. Schammel  
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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing *Motion in Limine* was on September 8, 2015, delivered to Mr. F. Andino Reynal, attorney for defendant, hand delivery, fax or ECF.

/s/ Steven Schammel  
Steven T. Schammel  
Assistant U. S. Attorney